

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT CURTISS and JENNIFER  
CURTISS,

Plaintiffs,

v.

SN SERVICING CORPORATION, et al.,

Defendants.

No. 2:23-cv-2455-DC-SCR

FINDINGS AND RECOMMENDATIONS

Plaintiffs are proceeding in this action pro se. This matter was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). This action commenced in this Court on October 23, 2023, when Defendants filed a Notice of Removal. ECF No. 1. At that time, Plaintiffs were represented by counsel.

Defendants moved to dismiss the Complaint on November 7, 2023. ECF No. 4. On December 11, 2023, the Court issued an Order to Show Cause, noting that Plaintiffs had failed to respond to the motion to dismiss and directing Plaintiffs' counsel to show cause why the action should not be dismissed for lack of prosecution. ECF No. 11. Thereafter, Plaintiffs' counsel sought to withdraw as counsel, and the Court granted the request. ECF No. 20. The order allowing counsel to withdraw also directed Plaintiffs that: "Within fourteen days of being served with this order plaintiffs shall file a statement addressing whether they intend to continue in this

1 action pro se or retain new counsel.” ECF No. 20 at 3. Plaintiffs did not respond to the Court’s  
2 order and appear to have taken no further action to prosecute this matter.

3 On September 9, 2024, this Court issued an Order to Show Cause directing Plaintiffs to  
4 show cause, in writing, within 14 days why this action should not be dismissed for failure to  
5 prosecute and for failure to comply with a court order pursuant to Federal Rule of Civil Procedure  
6 41 and Local Rule 110. ECF No. 23 at 2. The Order to Show Cause further provided that if  
7 Plaintiffs failed to respond, this Court “will recommend dismissal.” ECF No. 23 at 2. More than  
8 14 days have passed, and Plaintiffs have not filed a response.

9 In recommending this action be dismissed for failure to prosecute, the Court has  
10 considered “(1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
11 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
12 disposition of cases on their merits; and (5) the availability of less drastic alternatives.” *Ferdik v.*  
13 *Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). Because this case cannot  
14 move forward without Plaintiffs’ participation, the Court finds the factors weigh in favor of  
15 dismissal. Therefore, **IT IS HEREBY RECOMMENDED** that this action be dismissed, without  
16 prejudice, for lack of prosecution and for failure to comply with the court’s orders. *See* Fed. R.  
17 Civ. P. 41(b); Local Rule 110.

18 These findings and recommendations are submitted to the United States District Judge  
19 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)  
20 days after being served with these findings and recommendations, Plaintiffs may file written  
21 objections with the court. Such document should be captioned “Objections to Magistrate Judge’s  
22 Findings and Recommendations.” Local Rule 304(d). Plaintiffs are advised that failure to file  
23 objections within the specified time may waive the right to appeal the District Court’s order.  
24 *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

25 SO ORDERED.

26 DATED: October 31, 2024

27   
28 SEAN C. RIORDAN  
UNITED STATES MAGISTRATE JUDGE